

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of	)	<b>MAIL STOP Amendment</b>
Masakatsu Kiwada	)	Group Art Unit: 2625
Application No.: 10/800,873	)	Examiner: Iriana Cruz
Filed: March 16, 2004	)	Confirmation No.: 1558
For: IMAGE FORMING DEVICE, IMAGE	)	
FORMING METHOD, IMAGE	)	
FORMING PROGRAM, COMPUTER	)	
READABLE RECORDING MEDIUM	)	
ON WHICH THE PROGRAM IS	)	
RECORDED	)	

**ELECTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The Official Action dated November 9, 2009 imposes an election of species requirement and requests that Applicant elect one of three identified species. However, because of internal inconsistencies in the Official Action, it is difficult to correlate the identified sections in the specification with the identified functions. Accordingly, Applicant hereby elects species II, but contends that the species is not accurately defined by page 23, paragraph 64. Applicant elects the species wherein the image formation device is used for printing and when no IC tag is found in the document a blank page is outputted. At least claims 1, 7, 13, 18, 32, and 33 read on the elected species.

Applicant further submits that claims 21 - 23, 25 - 27, 29, 31, and 34 are not covered by any of the three alleged species. Thus, Applicant may be deprived of an opportunity to have such claims examined. Accordingly, Applicant respectfully

requests that the Examiner examine claims 1, 7, 13, 18, 21 - 23, 25 - 27, 29, 31, 32, 33, and 34.

In the event that the Examiner refuses to examine claims 21 - 23, 25 - 27, 29, 31, and 34, the Examiner is respectfully requested to identify how such claims recite mutually exclusive characteristics of the elected species, and how such claims require a different field of search, etc. In other words, the Examiner is required to explain what the mutually exclusive characteristics of such species are, and why the species require a different field of search.

With regard to the telephone interview with Examiner Cruz on December 7, 2010, Applicant's attorney discussed the election requirement. In particular, Applicant's attorney argued that because of internal inconsistencies in the Official Action, it is difficult to correlate the identified sections in the specification with the identified functions. However, the Examiner did not agree to withdraw the requirement.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: January 11, 2010

By: /WCRoland/  
William C. Rowland  
Registration No. 30,888

P.O. Box 1404  
Alexandria, VA 22313-1404  
703 836 6620